REMARKS

Applicant initially confirms the telephonic conference with the Examiner and Applicant's counsel on April 3, 2007. In that conference, the Examiner confirmed that Applicant's response to the restriction requirement dated October 20, 2006, was indeed compliant, contrary to the Examiner's prior position in the action dated Mach 22, 2007, and that an office action with the elected invention would thus be sent to applicant. It was further confirmed that no additional response was required by applicant with regard to the restriction requirement. It is thus clear that this issue is now moot.

The above noted amendments to the claims are respectfully submitted in response to the Official Action dated June 20,2007. The amendments to the claims are initially intended to amend claim 59 to include the limitations of prior claim 60, which had been indicated to be directed to allowable subject matter. Claim 60 has thus now been canceled. In addition, new claim 154 is intended to include the limitations of prior claims 59 and 66, and new claims 155-163 correspond to dependent claims 67-75. Finally, new independent claim 164 constitutes an amended claim 59 in which the limitations previously requiring that the housing be closed in order for the products of the present invention to supply the medical gases hereof has been amended to clarify the fact that the housing is completely closed and the compressed gas cartridge is fully enclosed therein so that access to the compressed gas cartridge is prevented thereby. Claims 165-167 correspond to prior claims 60-62. No new matter is included in any of these amendments. It is therefore respectfully submitted that all of the claims in this application are now patentable over the art, and reconsideration of allowance of this application is therefore respectfully solicited.

Claim 59 have been rejected as being unpatentable over Fields *et al.* under 35 U.S.C. § 102(b). Fields *et al.* is said to disclose apparatus for administering a medical gas (column 1 lines 2-5) to a patient comprising a housing (outer container) a compressed gas cartridge 60 disposed within the housing (placed in through portion 50) and containing a predetermined amount of the medical gas sufficient for normal respiration by the patient and patient supply means for providing the medical gas to the patient via 100 with the housing including an upper portion 10 and a lower portion 50 connectable with the upper portion 10 and a configuration in which the housing is closed citing Figure 2, column 2, lines 24-44. The compressed gas cartridge is said to have a size and configuration whereby the housing may be closed when the cartridge disposed within the housing (citing column 1, lines 51-53) and a compressed gas cartridge can supply the medical gas to the patient from the housing only when the housing is closed, citing column 2, lines 34-44 thereof. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

The Fields *et al.* reference is directed to relatively small containers for high pressure gasses such as freon, to be released from a valve assembly as desired. Thus, upon attachment of valve head 10 containing valve housing 30 within sleeve 50, the device is ready for use. Such use merely requires inserting the container 60 into sleeve 50 as indicated by the dotted lines shown in Figure 2. As is stated in the specification of the Fields *et al.* patent, assembly requires placing the housing 30 inside the head 10, and the housing is then retained in place by the sleeve 50 which is screwed into place by engaging threads 52 with corresponding threads 24.

The container 60 is then slipped into the open ended sleeve 50 and pushed onto the needle, so that the needle pierces

the diaphragm of the container 60. It is stated therein, however, that the device is configures so that the needle is not far enough through the diaphragm to allow the hole 38 in the needle to communicate with the interior of container 60. It is thus specifically stated that in order to release the gas, the container 60 needs to be manually pushed further into the sleeve, causing the disc 40 to slide inwardly in the housing, and compressing the spring 44. This is shown by the dotted line configuration in Figure 2. Immediately upon releasing such manual pressure against the container 60, the spring 44 will push the disc 40 back to its original position, and no more flow of gas will be realized. It is thus clear that the flow of gas is maintained for only an extremely short maximum period of time defined by the minor amount of gas therein, and even more significantly, within that short period one must continuously press against the bottom of the container 60 at 62 in order to maintain even that small flow of gas.

It is initially clear that the container 60 is not contained within a closed housing, and certainly not as required by new claim 164. Indeed, it is essential that the housing not be closed, and that access to the container 60 be maintained in order for this device to operate in the first instance. This is completely contrary to the claimed invention hereof even as set forth in claim 164, in which it is required that the compressed gas cartridge be fully contained within the housing, and not be accessible from the outside. The device itself will not operate, in fact, until this is the case, and the cartridge is fully contained therewithin.

Furthermore, although claim 66 was not rejected over Fields *et al.*, and it is noted that claim 154 includes the limitations of this claim, it is nevertheless noted that the Fields *et al.* device does not include gas delivery means in the upper portion of the housing for delivering the medical gas to

the patient supply means. Indeed, in prior art such as Fields *et al.*, the gas is directly released through nozzle 100, and it is therefore impossible to control the release of the gas once it is released from the cylinder itself. The overall concept of the present invention is thus entirely different from that of the prior art, such as Fields *et al.* Reference is made in this regard to the figures in this application, including figures such as Figures 2-8, which show the closed housing in conjunction with the gas delivery means of the present invention for accomplishing the various purposes hereof, including careful control of the various gas flows attainable therewith.

It is finally noted that, in addition to all of the above, the apparatus in Fields *et al.* is not adaptable for the most preferred uses of the present invention, in which this apparatus is employed with a larger gas container which can supply the preferred gas compositions of the present invention for from three to six minutes of continuous breathing. To the contrary, Fields *et al.* is directed to small, short bursts of gas, as used, for example, with a nasal inhaler device, from a cartridge which is described in column 3 of the specification as being a container that is about 2.5 inches long and about .75 inches in diameter. This, in fact, is a common cartridge, generally used with carbon dioxide gas, having about 10 ml. water volume, as compared to the far higher volumes required to meet the most preferred embodiments of the present invention.

Claim 60-62 and 64-75 have been rejected to as being dependent upon rejected base claims, but are deemed to be allowable if written in independent form. Since claim 59 has been amended to include the limitations of claim 60, it is believed that these claims are now clearly in condition for allowance and such action is therefore also respectfully solicited.

Claim 63 has been objected to under Rule 75(c) as being in improper dependent form. The Examiner points out that claim 63 recites the limitation "said cassette" and claim 59 does not has such a limitation. However, in view of the above amendments to claim 63 and the other claims herein, it is believed that this objection has clearly now been obviated. Reconsideration and allowance of all of these claims is therefore respectfully solicited.

If, however, for any reason the Examiner does not believe that this application is in complete condition for allowance, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any further objections thereto.

Finally, if there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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